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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/802,797	03/09/2001	Jon Marcus Randall Whitten	MS1-768US	8294
22801	7590	11/13/2006	EXAMINER	
LEE & HAYES PLLC 421 W RIVERSIDE AVENUE SUITE 500 SPOKANE, WA 99201			NGUYEN, DAT	
			ART UNIT	PAPER NUMBER
			3714	

DATE MAILED: 11/13/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/802,797	RANDALL WHITTEN ET AL.	
	Examiner	Art Unit	
	Dat T. Nguyen	3714	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 February 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 18, 20-35, 57, 58, 60 and 69-71 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 18, 20-35, 57-58, 60 and 69-71 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>See Continuation Sheet</u> . | 6) <input type="checkbox"/> Other: _____ |

Continuation of Attachment(s) 3). Information Disclosure Statement(s) (PTO/SB/08), Paper No(s)/Mail Date :2/15/06, 4/24/06,7/03/06,9/21/06.

DETAILED ACTION

Response to Amendment

1. This office action is in response to the amendment filed on February 15, 2006 in which applicant responds to the claim rejections. Claims 18, 20-35, 57-58, 60 and 69-71 are pending.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 18, 20-25, 27-35, 57, 58, 60 and 69-71 are rejected under 35 U.S.C. 103(a) as being unpatentable over Smith et al. (US 6,599,194) in view of Microsoft®Windows98.

The rejection as stated in office action paper no. 11162005 is maintained and incorporated herein.

3. Claims 26, 32 and 33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Smith et al. in view of Microsoft®Windows98 and further in view of Links 386CD Players Manual.

The rejection as stated in office action paper no. 11152005 is maintained and incorporated herein.

Response to Arguments

4. Applicant's arguments filed February 15, 2006 have been fully considered but they are not persuasive.

5. Applicant alleges that Microsoft®Windows98 does not teach or in anyway suggest a game console having a hard disk drive that is configured to store application data such that data associated with a first application is inaccessible to other applications. Examiner respectfully disagrees. One must consider the combination of the device of Smith et al. and Microsoft®Windows98 as one invention in which case it would meet the claimed limitations. Furthermore it would have been obvious to one of ordinary skill in the art at the time of invention that Microsoft®Windows98 is most commonly used in computers which are all capable of performing as a game console having a hard disk drive that is configured to store application data such that the data associated with a first application is inaccessible to other applications. Additionally, Microsoft®Windows98 provides a feature to the user wherein he/she can set the privacy and access settings to any files or folders to restrict, allow, or limit access by other users or programs.

6. Applicant further alleges that the office has used hindsight in using the claimed invention as a template to piece together prior art. Examiner respectfully disagrees. It is notoriously well known in the art to use an operating system to run a gaming console and Microsoft®Windows98 is such an operating system, therefore Smith et al. and Microsoft®Windows98 can be considered analogous art. Finally there is sufficient

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motivation to combine the references as provided in the previous office action and further discussed below.

7. Applicant challenges the obviousness of combining Smith et al. with Microsoft®Windows98. Applicant states that the motivation provided for combining the two is too general because it could cover almost any alteration. Examiner respectfully disagrees. Examiner does not believe the motivation for combining the two is too general because the problem is a general problem. One is faced with an the problem of restricting access to certain files or folders from unauthorized programs and games and so limiting access would make the hard disk drive more organized and prevent alteration of files from unauthorized programs.

8. Applicant alleges Smith et al. does not purport to have a hard disk that is unorganized such that it would benefit from improved organization. Examiner agrees, but fails to recognize the relevancy of this argument with respect to the mater at hand, obviousness of the rejection. Smith et al. does not disclose the need for the improved organization, but that does not translate to a teaching away from the combination.

9. Regarding claims 20 and 21, Applicant alleges they are allowable for depending from claim 18 and for their own recited features, but fails to disclose any reasoning for support for such allegations. Claim 18 has not been found to be allowable for reasons stated above.

10. Regarding claim 22, Applicant alleges Smith et al. fails to disclose a game consol having a hard disk drive that has a first region to store user data and s second region to store application data and wherein user data associated with the video game is

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segregated from user data associated with other video game applications and wherein the application data associated with the video game is segregated from application data associated with video game applications. Examiner agrees, however the rejection has not relied on Smith et al. for such teachings, but relies instead on Microsoft®Windows98. It would have been obvious to one of ordinary skill in the art to use the features of Microsoft®Windows98 to segregate the data into folders or regions to store corresponding files. One of ordinary skill would know and understand the need to place files into their corresponding folders as oppose to placing them into non-corresponding folders or one large folder. For instance, games go into game folders, pictures go into pictures folder, windows files go into windows folders, and so on and so fourth. One of ordinary skill in the art would be motivated to do so in order to better organize the files for future use.

11. Regarding claims 22-26, Applicant argues the same limitations lacking in claims 22 regarding Smith et al., however the office action has not relied on Smith et al for such teachings of limiting access in the manner recited in the claim. Please see responds regarding claim 22 above.

12. Applicant alleges that Smith et al. fails to disclose the elements of claim 27. Examiner agrees, however the rejection relies on Smith et al. in combination with Microsoft®Windows98, which does disclose the elements of claim 27.

13. Regarding claim 28-35, Applicant alleges these claims are allowable because they depend from claim 27 and are allowable for their own recited features. Examiner respectfully disagrees. Claim 27 is not allowable for reasons stated above.

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Furthermore, the claims 28-35 have been disclosed by the prior art, please refer to the rejection above.

14. Regarding claim 57, please see response regarding claim 27.
15. Regarding claim 58-60, please see response regarding claims 28-35 above.
16. Regarding claim 69, Applicant alleges that Smith et al. fails to disclose always loading the initial program read from the fixed disk. Examiner agrees, however Microsoft®Windows98 discloses such a limitation and it is obvious to combine the two for reasons stated above. Furthermore, examiner believes this requirement to be a matter of design choice because applicant has failed to disclose the criticality of such a step in the specification.
17. Regarding claim 70-71, Applicant alleges claims 70-71 are allowable for depending from claim 69 and for their own recited features. The rejection regarding claim 69 is retained for the reasons above and Applicant has failed to state why claims 70 and 71 are allowable in their own recited features over the prior art.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the

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shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dat T. Nguyen whose telephone number is 5712722178. The examiner can normally be reached on M-F 8am-5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John M. Hotaling can be reached on (571)272-4437. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Dat Nguyen

 **JOHN M. HOTALING, II**
PRIMARY EXAMINER